

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNILOC 2017 LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action Nos. 2:18-cv-00491, 492,
493, 496, 497, 499, 501, 502, 503, 504-
JRG

**FILED UNDER SEAL PURSUANT
TO PROTECTIVE ORDER**

JURY TRIAL DEMANDED

**GOOGLE LLC'S UNOPPOSED MOTION FOR LEAVE TO FILE A SUPPLEMENTAL
STATEMENT OF CONFIRMED WITNESSES IN CONNECTION WITH GOOGLE
LLC'S MOTIONS TO TRANSFER**

In its Motions To Transfer Venue To The Northern District Of California Under 28 U.S.C. § 1404 (“Google’s Motions to Transfer”), Google explained how the locations and convenience of relevant witnesses, among a host of other factors, strongly favored transfer of these cases to the Northern District of California. (492 Dkt. No. 61, at 2–3.)¹ In its Responses in Opposition to Google’s Motions to Transfer, Uniloc asserted that Google’s identification of numerous relevant witnesses in or near the Northern District of California was “merely a bald and self-serving assertion by Google” that would be belied by the actual discovery record in the case. (492 Dkt. No. 148, at 12.)

Now that fact discovery is coming to a close and all witnesses who have been, or will be, deposed are known, it is clear that Google’s prior identification of relevant witnesses (and their locations) was fully accurate, and that Uniloc’s early effort to dismiss Google’s witness identifications, and the convenience of relevant witnesses, was misguided. Indeed, it is now established that 13 of the 14 Google witnesses who were deposed in November and December 2019 were located in the Northern District of California; and at least 25 of the 27 Google witnesses who will be deposed in these cases (and other witnesses who may be brought to trial) are similarly located in the Northern District of California.² The remaining two are on the West Coast—[REDACTED]
[REDACTED]. None are in Texas. In addition, two potential Uniloc witnesses also are located in or close to the Northern District of California—[REDACTED]
[REDACTED]
[REDACTED]

¹ Though this Supplemental Statement cites to pleadings in the 492 case, substantially similar pleadings were filed in each of the captioned cases.

² No witness who has been, or will be deposed, is located within 100 miles of the Eastern District of Texas.

The current COVID-19 pandemic highlights and significantly augments the importance of witness location and convenience in the transfer analysis. Various shelter-in-place and stay-at-home orders issued across the country, travel restrictions, quarantine orders, family obligations and health and safety concerns make it difficult, if not impossible, for witnesses located in Northern California to travel to East Texas (by plane or train). Such witnesses are much more likely to be able to drive to a Northern District of California courthouse to testify for a day than they are to be able to travel to East Texas for many days. If these cases proceed in the Northern District of California, Google witnesses will more likely be able to testify live at trial. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Accordingly, given the importance of witness convenience to the transfer analysis – under both governing Federal Circuit precedent, *In re Genentech*, 566 F.3d 1338, 1343 (Fed. Cir. 2009), and under the Fifth Circuit’s 100-mile rule, *In re Volkswagen AG* (“*Volkswagen I*”), 371 F.3d 201, 204-05 (5th Cir. 2004) (per curiam) – Google seeks leave to file the attached Statement of Confirmed Witnesses In Connection With Google’s Motions To Transfer (Exhibit 1 hereto), so that the record is clear as to the identity and location of the now-established Google and Uniloc deposition witnesses in the captioned cases.

³ To be clear, if trials occur in Texas, both sides’ witnesses will be traveling from jurisdictions [REDACTED] that presently have their own government orders and/or that will subject the witnesses to two-week quarantines in Texas prior to trial (as per Texas’ current quarantine order).

Plaintiff's counsel is unopposed to the filing of this Motion for Leave to File A Supplemental Statement of Confirmed Witnesses In Connection with Google's Motion to Transfer.

Dated: May 19, 2020

Respectfully submitted by:

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail on May 19, 2020.

I also hereby certify that all counsel of record who have consented to electronic service are being served with a notice of filing of this document, under seal, pursuant to L.R. CV-5(a)(7) on May 19, 2020.

/s/ Michael E. Jones

CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL

I hereby certify that the foregoing document and all supporting declarations and exhibits thereto are being filed under seal pursuant to the terms of the Protective Order.

/s/Michael E. Jones